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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,922	06/13/2000	Robert A. Jacobs	5038-46	7879

7590 01/26/2004

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EXAMINER
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DELGADO, MICHAEL A

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 01/26/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

P24

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/593,922	JACOBS, ROBERT A.	
	Examiner	Art Unit	
	Michael S. A. Delgado	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 6 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No 6,470,392 by Murase et al.

In claim 1, Murase teaches about a method to change audio sources broadcast over a network, the method comprising (Fig 1):

separately buffering multiple audio sources (Fig 2, 55s) within one device (Fig 1, control unit 50) transmitted across the network (Fig 2, communication line 30) so as to reduce delay when audio sources are changed (Col 4, lines 35-40).

In claim 2, Murase teaches about a method of claim 1, the method further comprising selecting one of the multiple audio sources using a stream selector “software switch” in the device (Col 10, lines 30-50).

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In claim 3, Murase teaches about a method of claim 1, the method further comprising routing each of the multiple audio sources to a stream receiver operable to maintain connection with that audio source (Col 3, line 60-Col 4, line10).

In claim 4, Murase teaches about a method of claim 3, the method further comprising delivering the selected one of the multiple audio sources as audio output signals-to a user (Col 1, lines 55-67).

In claim 6, Murase teaches about a method of claim 1 wherein selecting one of the multiple audio sources is accomplished with one of the group comprised of predefined user inputs, and a present user input (Col 2, lines 5-10).

In claim 15, Murase teaches about an article comprising:

a) a storage medium, the storage medium having stored thereon instructions, that, when executed by a computing device, result in (Fig 1, server 31, RAM 3) Col 3, lines 30-45):

i) reception of multiple audio sources using a stream receiver for the multiple audio sources (Fig 1, control unit 50);

ii) buffering of the multiple audio sources received from the stream receivers (Fig 2, 55);  
and

iii) selection of one of the multiple audio sources and to produce audio output signals (Col 1, lines 55-67).

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5, 7-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,470,392 by Murase et al in view of US 6,195,680 by Goldszmidt et al.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

In claim 5, Murase teaches all the limitation but does not explicitly teach about a method of claim 1 wherein buffering of the multiple audio sources is accomplished by one of the group: comprised of a computer having browsing software, and an Internet radio receiver. The use of internet radio (An internet radio is an audio stream that is transmitted via the internet to a client browser) and its application to internet browser is well known in the art as disclosed by Goldszmidt (Fig 3d), (Col 12, line 45-Col 13, line 15), (Col 14, lines 5-20). Goldszmidt discloses a web browser plugin, BAMBA, which was used to select an audio stream from a plurality of audio streams, which was converted by the computer to sound.

It would have been obvious at the time of the invention for someone of ordinary skill to use the internet because of its popularity and its reach.

Conventional radio stations are limited to the strength of their radio signals while the internet has its reach all over the world. By targeting the many computers with a browser, one is able to reach wider audiences, which is excellent for advertisement.

In claim 7, Murase combines with Goldszmidt, teaches about an Internet radio receiver operable to switch between multiple audio sources “streams” and deliver radio receiver output “audio” to a user “terminal”, the receiver comprising (Goldszmidt, Col 14, lines 5-20), (covered in claim 5): (An internet radio is an audio stream that is transmitted via the internet to a client)

a stream manager (Fig 1, control unit 50) operable to receive and buffer the multiple Internet radio sources “audio stream” within one device (Fig 1, control unit 50) and to select one of the multiple Internet radio sources “audio stream” (Col 4, lines 35-40), (Col 1, lines 55-60). The hardware of the control unit, 50, could have easily being replace by the software BAMBA running on one device which is the computer.

In claim 8, Murase combines with Goldszmidt, teaches about a receiver of claim 7 wherein the receiver further comprises a connector operable to receive the multiple audio sources (Fig 1, receive/decomp unit 40), (Col 3, line 45-Col 4, line10).

In claim 9, Murase combines with Goldszmidt, teaches about a receiver (Fig 1, terminal 32) of claim 8, wherein the connector is one of a group comprised of a modem cable, a wireless receiver, a power line, and a network cable (Col 3, lines 15-25). All the above communication media are well known standard means of communication.

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In claim 10, Murase combines with Goldszmidt, teaches about a receiver (Fig 1, terminal 32) of claim 8 wherein the receiver further comprises an interface (Fig 1, 30) between the connector (Fig 1, receive/decomp unit 40) and the stream manager (Fig 1, control unit 50).

In claim 11, Murase combines with Goldszmidt, teaches about a receiver of claim 10, wherein the interface is one of a group comprised of a modem, a network interface card, a power line data interface and a wireless modem (Col 17, lines 20-35). All the above communication media are well known standard means of communication.

In claim 12, Murase combines with Goldszmidt, teaches about a receiver of claim 7 further comprising at least one speaker operable to present the one of the multiple audio sources to a user as audio output signals (Col 2, lines 55-67). It is not possible to hear audio without a speaker.

In claim 13, Murase combines with Goldszmidt, teaches about a receiver of claim 7 further comprising a display operable to display an identifier of a selected one of the multiple audio sources (Col 2, lines 55-67).

In claim 14, Murase combines with Goldszmidt, teaches about a receiver of claim 7 wherein the stream manager further comprises:

a) multiple stream receivers each operable to-receive one of the multiple audio sources (Fig 1, terminals 32);

b) corresponding stream buffers each operable to receive data from one of the multiple stream receivers (Fig 2, 55);

c) a stream selector operable to select one of the multiple audio sources as output to a user (Col 1, lines 55-67).

In claim 16, Murase combines with Goldszmidt, teaches about an article of claim 14 wherein said computing device comprises a personal computer (covered in claim 5).

In claim 17, Murase combines with Goldszmidt, teaches about an article of claim 14 wherein said computing device comprises an Internet radio receiver having a processor (covered in claim 5).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



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US Patent No 6,470,390 by Murase et al, teaches about an apparatus for and a method of creating and conveying an interactive audiovisual work

US Patent No 6,557,067 by James et al, teaches about a system and method to effectively compensate for delays in an electronic interconnect.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael S. A. Delgado whose telephone number is 703-305-8057. The examiner can normally be reached on 8 AM - 4.30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703)308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

MD

MD

January 16, 2004

  
**DAVID WILEY**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**